

1 STATE OF NEW HAMPSHIRE
2 SITE EVALUATION COMMITTEE

3 December 1, 2008 - 9:05 a.m.
4 21 South Fruit Street
5 Suite 10, Room 103
6 Concord, New Hampshire

7 In re: SITE EVALUATION COMMITTEE:
8 Docket No. 2008-05: Public Hearing
9 Regarding the Motion for Declaratory
10 Ruling by Florida Power & Light Company
11 regarding Transmission Substation
12 Reliability Upgrade.

13 PRESENT: SITE EVALUATION COMMITTEE:
14 Thomas S. Burack, Cmsr. Dept. of Environmental Services
(Chairman of SEC - Presiding Officer)
15 Thomas B. Getz, Chrmn. Public Utilities Commission
16 (Vice Chairman of SEC)
17 Graham J. Morrison, Cmsr. Public Utilities Commission
18 Clifton C. Below, Cmsr. Public Utilities Commission
19 Harry T. Stewart, Dir. DES - Water Division
20 Robert Scott, Dir. Air Resources Division (DES)
George Bald, Cmsr. Dept. of Resources & Econ. Dev.
Glenn Normandeau, Dir. N.H. Fish & Game Department
Amy L. Ignatius, Dir. Office of Energy & Planning

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23 COURT REPORTER: Steven E. Patnaude, LCR No. 52
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2 ALSO PRESENT: Michael Iacopino, Esq.
3 Counsel for the Committee
4 Cedric Dustin
Administrator for the Committee

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Reptg. Florida Power & Light Co. :
Douglas L. Patch, Esq. (Orr & Reno)
Rachel Goldwasser, Esq. (Orr & Reno)
Gunnar Birgisson, Esq. (Sr. Atty. - FPL)

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1 P R O C E E D I N G S

2 CHAIRMAN BURACK: Good morning, Ladies
3 and gentlemen. My name is Tom Burack. I'm Commissioner
4 of the New Hampshire Department of Environmental Services,
5 and also serve as Chair of the State of New Hampshire Site
6 Evaluation Committee. We are here today for a public
7 meeting of the New Hampshire Site Evaluation Committee.
8 And, as many of you know already, this Committee is
9 established by RSA 162-H. The membership of this
10 Committee includes the Commissioners and Directors of a
11 number of State agencies, as well as specified key
12 personnel from various State agencies.

13 And, at this point, I would like to ask
14 the members of the Committee who are present today to
15 please introduce themselves, and starting on my far right.

16 DIR. NORMANDEAU: Glenn Normandeau,
17 Director of Fish & Game.

18 CMSR. BALD: George Bald, Commissioner
19 of Department of Resources & Economic Development.

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20 DIR. STEWART: Harry Stewart, Water
21 Division Director, Department of Environmental Services.
22 DIR. SCOTT: Bob Scott, Air Resources
23 Division, Director, Department of Environmental Services.
24 CMSR. BELOW: Clifton Below, Public
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1 Utilities Commissioner.
2 VICE CHAIRMAN GETZ: Tom Getz, Chair of
3 the Public Utilities Commission and Vice Chair of this
4 Committee.
5 CMSR. MORRISON: Graham Morrison, Public
6 Utility Commissioner.
7 DIR. IGNATIUS: Amy Ignatius, Director
8 of the Office of Energy & Planning.
9 CHAIRMAN BURACK: To my immediate right
10 is Michael Iacopino, who serves as legal counsel to the
11 Site Evaluation Commission. We're also joined today by
12 Cedric Dustin, who serves as Administrator for some of the
13 matters before the Site Evaluation Committee.
14 The agenda for today's public meeting
15 includes two items. Due to information received from
16 Committee Counsel, I have chosen to change the order of
17 our agenda today so that it will be somewhat different
18 than we first planned.
19 Our first agenda item today will be in
20 Docket Number 2008-05, a Motion for Declaratory Ruling
21 filed by Florida Power & Light Company regarding a
22 proposed substation reliability upgrade for the Seabrook
23 Substation located in Seabrook, Rockingham County, New
24 Hampshire.

1 The second item on today's agenda will
2 be in Docket Number 2008-02, the Application of Tennessee
3 Gas Pipeline Company for a Certificate of Site and
4 Facility for the Concord Lateral Expansion Project located
5 in both Concord and Pelham, New Hampshire, in Merrimack
6 and Hillsborough Counties respectively.

7 Today's meeting was convened as the
8 result of an Order of Notice of Public Hearing and Meeting
9 that I issued on November 4, 2008. Notice of today's
10 public meeting was published in the Pelham-Windham News on
11 November 7, 2008; in the Concord Monitor and the Nashua
12 Telegraph on November 8, 2008; in the Manchester Union
13 Leader on November 10, 2008; and in the Portsmouth Herald
14 on November 11, 2008. Affidavits attesting to said
15 publication were filed on November 18, 2008, and they will
16 become part of the record for each of the matters before
17 the Committee.

18 At this point, we will proceed with our
19 first agenda item. And, this is Docket Number 2008-05,
20 Motion for Declaratory Ruling by Florida Power & Light
21 Company regarding transmission substation reliability
22 upgrade. On October 22, 2008, Florida Power & Light
23 Company filed a motion seeking a declaratory ruling from
24 the Committee. The motion requests that the Committee

1 determine that planned reliability upgrades to its 345
2 kilovolt transmission substation located in Seabrook,
3 Rockingham County, do not constitute a sizeable change or
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4 addition to the facility, and therefore do not require a
5 Certificate of Site and Facility pursuant to RSA 162-H: 5,
6 II. This Committee has authority to hear and determine
7 the merits of this motion as a declaratory ruling pursuant
8 to our administrative regulations, specifically New
9 Hampshire Code of Administrative Rules, Site 203.01 and
10 203.02.

11 According to the motion, the proposed
12 upgrade is scheduled to take place entirely within the
13 existing footprint of the Seabrook Substation and is not
14 projected to result in any increase in voltage carried by
15 the transmission facilities. As part of the proposed
16 upgrade, the reserve auxiliary transformers presently
17 located at the Seabrook Substation will be relocated to
18 connect to a dedicated terminal position. The existing
19 generator step-up transformer connections will also be
20 relocated from the current position where they share a
21 breaker and a half bay with the Seabrook-Scobie 363 line
22 to a dedicated double breaker bay. In addition, five new
23 gas insulated substation breakers will be installed. Two
24 will be replacements for existing breakers and three will

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1 be new breakers. In addition, a new substation structure
2 will be constructed, which will be slightly taller than
3 the existing substation structure. The estimated cost of
4 the reliability upgrade project is between \$38 and
5 \$44 million. The Florida Power & Light Company wishes to
6 commence construction on this project by March 1, 2009, so
7 that construction will coincide with presently scheduled
8 maintenance outages for the Seabrook Nuclear Power

9 Station.

10 We will first take appearances, and then
11 allow Florida Power & Light Company to make a
12 presentation. Thereafter, members of the Committee may
13 ask any questions that they may have of the Company. If
14 there are any members of the public who wish to speak to
15 this motion, we will then hear from them. At that point,
16 we will then move to deliberation on the motion.

17 So, I'd first like to ask for
18 appearances by the Applicants.

19 MR. PATCH: Good morning, Mr. Chairman,
20 members of the Committee. Doug Patch, with the law firm
21 of Orr & Reno, appearing here today on behalf of the
22 Florida Power & Light Company. And, with me -- I have a
23 number of introductions to give to the Committee. First
24 of all, Rachel Goldwasser, who is an associate with Orr &
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1 Reno; Gunnar Birgisson, who is a Senior Attorney with FPL;
2 Bill Locke, who is the Director of Transmission with FPL;
3 Rick Conant, who is actually a consultant, he's a Manager
4 of Power System Studies with RLC Engineering. And, then,
5 we have about four people on the telephone. We appreciate
6 the opportunity to tie them in by phone, in case there are
7 questions from Committee members. And, just to --

8 CHAIRMAN BURACK: Would you be kind
9 enough to introduce the names of the folks who are
10 listening in on the phone please.

11 MR. PATCH: Yes. First of all, Timothy
12 Cooper, who is the NED Project Manager at Seabrook
13 Station. "NED" meaning the "New England Division" of

14 Florida Power & Light Company. Steve Garwood, who is an
15 Administrative Manager. He's a consultant. We also have
16 Mike Putt, from FPL, who is the Switchyard Design Manager.
17 And, then, we have Gary Emond, who is with TRC. He's a
18 consultant on environmental issues.

19 CHAIRMAN BURACK: Thank you.

20 MR. PATCH: Thank you.

21 CHAIRMAN BURACK: Would you like to
22 proceed with your presentation?

23 MR. PATCH: Yes. Thank you. Mr.
24 Chairman, what we wanted to do this morning, if it's okay

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1 with you and members of the Committee, is to just give you
2 a brief overview of the project that's being proposed, and
3 then answer any questions that you have. I'd be happy to
4 talk on the legal end of things, in terms of the precedent
5 that we believe has been established by this Committee
6 through a couple of other cases that have been before this
7 Committee in the past. That's all in our Motion for
8 Declaratory Ruling. But we thought it would be best to
9 sort of start with the facts and answer any questions that
10 you might have, if that's okay?

11 CHAIRMAN BURACK: Please.

12 MR. PATCH: First of all, the
13 transmission substation at Seabrook, as you have very
14 aptly described it when you introduced this portion of
15 your agenda, is a 345 kV substation that interconnects
16 Seabrook Station, which is the largest single generating
17 source in New England, has an integral part of the
18 transmission grid in New England. It's owned and operated

19 by FPL, Florida Power & Light Company, which is a public
20 utility in the State of New Hampshire. It was actually
21 approved as a public utility in 2004 by the Public
22 Utilities Commission, for the limited purpose of owning
23 and operating the substation at Seabrook, the transmission
24 substation. That's a separate entity from the Company,

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1 which is an affiliate that actually owns the nuclear
2 generating station, that's FPL Energy Seabrook. So,
3 they're two separate entities. And, the upgrade in this
4 particular case, as we described in the motion, is
5 something that FPL believes is necessary. We described in
6 the motion, I think there are about 26 days of unplanned
7 outages dating back to February of 2007. And, so, in
8 order to avoid those outages on the New England grid, FPL
9 believes that it's important to do the improvements to
10 this substation in order to avoid that, and to be
11 prepared, you know, in the future, so that the equipment
12 is good, and so that there is also redundancy, which is
13 not there at this point in time.

14 I'm a lawyer, not an engineer. So, feel
15 free to interrupt with questions about the design of the
16 upgrade. As we said in the motion as well, this is all
17 being done within the existing footprint. We're not
18 asking to go outside of the footprint. There -- Actually,
19 we provided, along with the motion, a picture that I think
20 is very good and very helpful to the Committee. And, I
21 have extra copies here, if you would like me to
22 distribute, first of all, the pictures that we submitted.
23 We did submit this along with a Motion for Confidential

24 Treatment, because FPL is just very sensitive to the fact
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1 that, because of security concerns, we want to make sure
2 that this kind of information isn't generally shared with
3 the public. But, if any member of the Committee would
4 like an extra copy of that picture we submitted, I'd be
5 happy to provide one, if you would like.

6 CHAIRMAN BURACK: It would be helpful if
7 you would just provide copies to all.

8 MR. PATCH: Okay.
9 (Atty. Patch distributing photographs.)

10 MR. PATCH: As you can see from the
11 picture, there is -- this building that we have noted on
12 here, it's actually been added to the photo, obviously, as
13 a simulation of what the new structure would look like.
14 And, it's within the existing switchyard where that would
15 be added. And, the building is higher than what is there
16 now. But as I think, it's maybe a little hard to tell
17 from this picture, but, as is clear, the building is not
18 going to be any higher than some of the adjoining
19 buildings. And, in fact, it will still be shorter. So,
20 from a visual perspective, it's not as if this is going to
21 create some new structure that's going to be higher than
22 some of the surrounding buildings.

23 And, I actually have one more photo that
24 we have since determined that we thought it would be

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1 helpful for the Committee to see, it's really a footprint

2 of the whole plant. And, so, with the Chair's permission,
3 I would like to hand this out.

4 CHAIRMAN BURACK: Thank you. That would
5 be very helpful.

6 MR. PATCH: And, we would request a
7 similar kind of confidential treatment for this photo as
8 well.

9 (Atty. Patch distributing photographs.)

10 MR. PATCH: If you look at this photo,
11 you see on the right, I believe it's the Brown River that
12 is over to the right-hand side of the photograph. And,
13 then, you see, near the bottom of the photograph, the
14 white dome, which is Unit 1. And, over to the right of
15 that, you can see the switchyard. And, that's where the
16 structure is going to be, in that switchyard there. It's
17 kind of a mesh. And, this, I think, gives you a
18 perspective of the overall footprint for Seabrook, what
19 portion of it is going to be affected. Again, it doesn't
20 expand the footprint at all. So, we thought that would be
21 helpful to the Committee.

22 As you have described, there's no
23 voltage increase. It really involves a relocation of the
24 RATS and an installation of five new GIS breakers, in

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1 order to improve the reliability.

2 As we pointed out in the motion, the
3 timing of the project is really critical. There is a
4 scheduled outage at the generating station in October of
5 2009. And, the schedule for doing these improvements
6 really begins this March of '09, in order to get some of

7 the pre-outage work done, it really has to begin by then.
8 And, the cutover would be made during that October outage.
9 But there are a number of things that have to be done in
10 order to be prepared to be able to go right to work as
11 soon as the outage starts. So, the timing is really
12 critical.

13 We talked as well about other permits
14 that are necessary. And, communications with various
15 state and federal officials have basically concluded, as
16 we indicated in the motion, that the only thing that is
17 really needed, I believe, is a Notice of Intent with the
18 Environmental Protection Agency, with regard to
19 dewatering. There are people, again, who can answer more
20 questions, if you have more questions about that. They
21 will also be working with the local officials, in terms of
22 any building permits that are required and meeting any
23 local requirements. But, at the state level, we've been
24 led to believe that there are no permits required, again,

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1 because we're not changing the existing footprint at all.

2 So, with that, I'm sure, I don't know,
3 Bill, if you want to add anything, or if there is anybody
4 who wants to add anything for the Committee. But we'd, of
5 course, be happy to answer questions. And, then, I could
6 talk more about what I think the precedent is.

7 CHAIRMAN BURACK: Fair enough. Anybody
8 wish to say anything further from here?

9 MR. LOCKE: No thank you.

10 CHAIRMAN BURACK: Okay. Are there
11 members of the Committee who have questions?

12 CMSR. BELOW: I have one question.
13 Where will the construction staging area be, perhaps
14 relative to this photo?

15 MR. BIRGISSON: I'm going to ask Tim
16 Cooper, who is our Site Manager, to address that question.
17 Tim, can you talk about where the staging area will be?
18 Tim, are you there? Tim Cooper?

19 MR. GARWOOD: Yes, this is Steve
20 Garwood. For those of us on the phone, I have to say, if
21 they're all coming in like you're coming in for me, other
22 than you, Gunnar, I haven't heard a single word spoken
23 yet.

24 MR. BIRGISSON: Okay. Well, we'll --
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1 MR. COOPER: This is Tim Cooper. I just
2 was mute-challenged there for a second.

3 MR. BIRGISSON: Yes. I'm sorry. We
4 have one phone, and it's in the middle of the room, so not
5 all the sound may carry. But the question was where the
6 construction staging area will be, Tim. Could you address
7 that for the Committee please?

8 MR. COOPER: Sure. We'll have staging
9 areas outside the protected area at Seabrook, in the
10 locations what we call "laydown areas", that are basically
11 vacant areas outside the protected area around Seabrook.
12 Around the -- Inside the protected area, we'll also have
13 laydown areas, where we will gradually bring the equipment
14 and materials inside of the protected area. And, that's
15 important, because getting through our security barriers
16 can be -- definitely be a job delay. So, we'll gradually

17 stage the equipment inside the protected area. There are
18 several locations that we can use for laydown areas,
19 mainly over by the maintenance facility, on the northeast
20 side of the turbine building will be the primary, inside
21 the protected area laydown area.

22 MR. PATCH: Does that help?

23 CMSR. BELOW: So, basically, --

24 MR. COOPER: Does that answer the
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1 question?

2 CMSR. BELOW: Basically, within existing
3 improved areas, paved areas, or --

4 MR. COOPER: I'll need a repeat on that.

5 MR. PATCH: Did you -- So, basically,
6 it's within existing paved areas where that -- where
7 that's going to be?

8 CMSR. BELOW: Or improved areas?

9 MR. COOPER: Well, the laydown areas
10 outside the protected area are not paved. They're -- It's
11 where we had all of our pre-construction equipment,
12 pre-stage for building the power plant. They're really
13 just fields now. Inside the protected area, there's both
14 paved areas and there's crushed stone areas that will be
15 used.

16 CMSR. BELOW: Okay.

17 MR. PATCH: Okay.

18 CHAIRMAN BURACK: Director Ignatius.

19 DIR. IGNATIUS: Thank you. And, you may
20 have to relay the question. The status of permitting for
21 or status of negotiations perhaps with the Town of

22 Seabrook, and the status of approvals from ISO-New
23 England, they're referenced that you're working on both of
24 those things in the motion, but that was back in October.

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1 MR. PATCH: Yes.

2 DIR. IGNATIUS: So, could you update us
3 on the status of those two things? And, also, maybe just
4 add one more thing to it so you know, is this a
5 reliability upgrade that the ISO-New England has requested
6 be done? You say in the motion that "it must be done",
7 but is that "it must" from a good operation standpoint, in
8 your view, or "it must be done" from a regulatory
9 requirement with your -- with the ISO?

10 MR. PATCH: Bill, did you want to
11 address the ISO?

12 MR. LOCKE: Thank you, Doug. I will.
13 To answer your first question, as of Thursday, 10, 11 days
14 ago, we received final approval to move forward with the
15 Seabrook reliability project from ISO-New England, so that
16 has been completed.

17 With regard to your second question, we
18 had several meetings with ISO-New England about the past
19 outages we had at the plant, some 26 days of outages since
20 February 2007. We explained to them, in our opinion, the
21 ability -- the need to move forward with reliability
22 improvements, so that we could avoid these kind of outages
23 moving forward. We had presented our project as why was
24 improving it, the reliability, and that replacing existing

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1 breakers with new, more modern technology, two existing
2 breakers. We are realigning where the reserve auxiliary
3 transformers are going to be connected. We thought that
4 was a -- what's called a "topology" or physical
5 improvement to the reliability of the station and to the
6 Newbury line. And, in addition to that, we're
7 reconnecting where the generator step-up transformer is
8 connected today and putting it between two new breakers.
9 All we strongly believe are reliability improvements to
10 the lines in New England, the substation itself, and the
11 ability to deliver power from the substation, from the
12 generating plant to the New England grid.

13 The process in New England, as I'm sure
14 you're aware, is that first you must show that it has no
15 detriment to the reliability of the New England grid, from
16 a stability point of view and from an operational point of
17 view. And, we've proven that to the ISO, which is why we
18 now have their approval to move forward on the project.
19 The next phase will be a discussion about cost recovery
20 and who pays for what part of the station. As to whether
21 or not it will be accepted to go into the rates in New
22 England, and/or directly assigned or charged to FPLE
23 Seabrook.

24 MR. PATCH: And, in terms of local
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1 approvals, I think that was the first part of your
2 question, I think Steve Garwood is the person. Steve?
3 Steve Garwood, are you there?

4 MR. GARWOOD: I am, yes. Go ahead.

5 MR. PATCH: Steve, there was a question
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6 about where we stand with local approvals. Could you
7 answer that?

8 MR. GARWOOD: With the Town of Seabrook?

9 MR. PATCH: Yes.

10 MR. GARWOOD: Yes, I've had several
11 conversations with the Code Enforcement Officer, Paul
12 Garand. And, he instructed me that, once we had gotten
13 the project costs in sufficient detail to submit to him
14 with the permit application, and also any correspondence
15 we had with other agencies with which we may need to check
16 in on whether permits were required, such as the
17 Department of Environmental Services and the Army Corps of
18 Engineers, to provide that correspondence with them.
19 Then, he'd be ready, assuming all looked well in that
20 application, to issue us a permit within about a ten day
21 turnaround time. So, we're in the process of getting our
22 costs in that sufficient detail as he's requested, and we
23 now have correspondence indicating that no permits will be
24 required from the DES or the Army Corps of Engineers. So,

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1 as soon as we get the cost information together, we could
2 be submitting our application to the town for the permit,
3 you know, any day.

4 CHAIRMAN BURACK: Go ahead, Mr. Getz.

5 VICE CHAIRMAN GETZ: Yes. Good morning,
6 gentlemen. The statute talks about "sizeable additions".
7 And, I don't know if, Mr. Patch, you're going to get to
8 that somewhat. But the -- And, then, we don't have a lot
9 of guidance whether "sizeable" is in the abstract or
10 there's some notion of proportionality. But, if I'm

11 looking at your motion, I think it says that the upgrade
12 is approximately \$40 million, is that correct?

13 MR. LOCKE: Our latest budgeted estimate
14 for those costs is 36 million.

15 VICE CHAIRMAN GETZ: So, and then that
16 would be in relationship to a more than \$6 billion
17 original investment in the plant, is that correct?

18 MR. PATCH: You probably know that
19 better than any of us, so I think that's right.

20 VICE CHAIRMAN GETZ: Say subject to
21 check?

22 MR. PATCH: Yes, subject to check.

23 VICE CHAIRMAN GETZ: And, I don't see
24 anything -- I can look at the picture and kind of draw a

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1 conclusion that the relative square foot of the addition
2 is small. But do we have any -- do you have any numbers
3 on what the square footage of the addition is, in
4 comparison to the square footage of the facility?

5 MR. LOCKE: We can -- I ask Mike, I will
6 ask Mike Putt to tell you the size of this facility.

7 MR. PATCH: Okay.

8 MR. LOCKE: I don't know the overall
9 acreage.

10 MR. PATCH: Mike Putt? Mike?

11 MR. PUTT: Yes.

12 MR. PATCH: There's a question about the
13 square footage involved with this particular upgrade. Is
14 that something you could address?

15 MR. PUTT: Yes. The upgrade will, as
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16 compared to the -- I'll give you kind of a percentage, of
17 the overall footprint of the switchyard, the upgrade or
18 more the platform itself that will be mounted over the top
19 of the existing will be about a quarter of the existing
20 footprint of the switchyard. Which is, I'm going to give
21 you an approximate, it's about 150 feet by about 60 feet
22 wide. Does that answer the question?

23 MR. PATCH: Yes.

24 VICE CHAIRMAN GETZ: Well, I guess, and
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1 the follow-on --

2 MR. LOCKE: It's very small, compared to
3 the overall size of the Seabrook plant.

4 VICE CHAIRMAN GETZ: And, the follow-on
5 question would be, of the switchyard, what's the
6 relationship of that to the facility, if you have any
7 order of magnitude?

8 MR. PATCH: Mike, do you have any idea
9 of what portion of the overall facility the switchyard is,
10 in terms of square footage?

11 MR. PUTT: I'd have to pull out the
12 actual print to give you that. If you give me a few
13 minutes, I can get that, or Tim might have it.

14 VICE CHAIRMAN GETZ: I'm just looking
15 for, you know, a rough idea, order of magnitude. And, so,
16 if they can get back to us, there's probably other
17 questions.

18 MR. PATCH: Yes. I mean, as just a
19 rough idea, is it --

20 MR. PUTT: It's probably, you know,
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21 might be maybe 300 feet by 100 feet.

22 MR. PATCH: No, but, Mike, I think the
23 question is the switchyard, as compared to the overall
24 footprint for the entire facility, meaning all of Seabrook
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1 Station and all of the transmission related equipment
2 there, is what portion of that entire footprint is the
3 switchyard? I think is the question, really.

4 MR. PUTT: You mean the switchyard
5 versus the entire plant?

6 MR. PATCH: Yes.

7 MR. PUTT: The entire power plant? The
8 footprint of the plant or the footprint, the area of all
9 the property owned by Seabrook? I mean, there's --

10 MR. PATCH: I think it's really the
11 plant that they're looking for, is, you know, do you have
12 some idea? Is it 1 percent? 2 percent? 5 percent? You
13 know?

14 MR. PUTT: I think Steve, Steve or Tim
15 could probably better give an answer to that. It's just a
16 couple of percent, I would think, to the overall property
17 owned by Seabrook. And, to the plant, it's less than
18 10 percent.

19 MR. GARWOOD: I have never -- Steve
20 Garwood. I have never bothered to measure it for this
21 purpose, but I'd have to agree, it's probably less than
22 10 percent of the developed area.

23 MR. COOPER: I'll chime in. This is Tim
24 Cooper. I would say it's less than 5 percent of the

1 protected area. So, the power block proper I would say is
2 less than 5 percent.

3 VICE CHAIRMAN GETZ: Well, if they could
4 confer among themselves separately off line and give us an
5 answer while we resume with the rest of the hearing, that
6 would probably be helpful.

7 MR. PATCH: Yes. I mean, if you could
8 -- could you just confirm that, and maybe we'll come back
9 in a few minutes?

10 MR. GARWOOD: We want to include areas
11 that are outside the protected area that are also already
12 developed, like the open area yard, the administrative
13 buildings, parking lots? Or are we just interested in the
14 space where the generator is located behind the protected
15 area fence?

16 VICE CHAIRMAN GETZ: Let's use the
17 protected area.

18 MR. PATCH: Okay. Protected area.
19 Okay. Could you see if you could come up with a -- again,
20 it doesn't have to be exact, but just, you know, to give
21 the Committee some idea of what portion of the protected
22 area is the switchyard. Okay?

23 MR. GARWOOD: Yes. Tim, can you take
24 that?

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1 MR. COOPER: Yes, I'll take a shot at
2 it.

3 MR. PATCH: Okay.

4 CHAIRMAN BURACK: Thank you. Are there
5 other questions on technical issues from the Committee?

6 (No verbal response)

7 CHAIRMAN BURACK: Okay. If not,
8 Attorney Patch, do you want to share with us your legal
9 analysis here?

10 MR. PATCH: Sure. There are, as we
11 indicated in the Motion for Declaratory Ruling, really at
12 least two other situations that have come before this
13 Committee, both of them in 2004, I believe, is at least
14 when the Committee made the rulings in those situations.
15 One involved Schiller Station, and it was a 50 megawatt
16 unit that was converted to be a wood-fired, I think
17 actually wood and coal-fired unit, and that was an
18 approximately \$75 million project. It did involve, I
19 believe, from the initial filing that they made, some
20 expansion of the footprint there, in terms of additional
21 facilities that were required in order to service that
22 particular area. But the determination of the Committee
23 that was made in January of 2004, in that particular
24 situation, was that that did not constitute a sizeable

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1 addition, and under the terms of the same statute that
2 we're asking for a similar ruling here in this particular
3 case.

4 And, then, secondly, there was the
5 uprate to Seabrook, which was done at approximately the
6 same time, that was about a 6.7 percent increase in the
7 output of the plant, that involved some modifications. I
8 think it was represented at the time that the project was

9 estimated to cost about \$46 million. And, I'm not
10 suggesting that it's just about the cost, but just to give
11 you an idea of magnitude. And, that resulted in a fairly
12 significant increase in the output of the plant,
13 obviously. But, again, the Committee determined that,
14 under those circumstances, that did not constitute a
15 sizeable addition to the plant either.

16 And, in both situations, the Committee
17 issued a letter and indicated that it was their
18 determination that neither of those particular
19 modifications were considered to be sizeable under the
20 statute.

21 As Chairman Getz indicated earlier,
22 there is no definition of "sizeable" in the statute.
23 There's no definition in the rules either. So, I think,
24 for that reason, it's important to look to the precedent

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1 of this Committee as the basis for determining whether or
2 not this particular project should be considered to be
3 "sizeable". And, so, it's our belief, based on that
4 precedent, that what we're proposing to do here, which
5 again does not expand the footprint at all, and is not
6 going to have the impacts on the kinds of things that this
7 Committee generally looks at under this statute. You look
8 at environmental impacts, you look at impact on aesthetics,
9 on the orderly development of the region. You know, those
10 are the kinds of things that, if the Committee were to
11 have a full-fledged review process, you know, the 11-month
12 review process that's provided for under the statute,
13 those are the kinds of things the Committee would

14 typically look at. There would need to be a full
15 application and full review.

16 But it's our belief that, given what's
17 being proposed here, given the lack of impact on that
18 footprint, and on those areas that the Committee
19 traditionally looks at, that it would be fully appropriate
20 for the Committee to determine that this is not a
21 "sizeable addition" under the statute.

22 I think also we had cited in our motion
23 to a couple of other situations that were not considered
24 to be sufficient to do a sizeable addition. It seems,

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1 though, there was one that was I think referred to maybe
2 in a footnote. Oh, it was a 1992 conversion of Newington
3 Station, when it was converted to natural gas, in addition
4 to coal. And, that was not subject to review and approval
5 of the Committee. So, there are at least three situations
6 I think the Committee can look to as a basis for making a
7 determination under the motion that we have submitted
8 here.

9 CHAIRMAN BURACK: Thank you. Any
10 questions from the Committee on these legal issues?

11 (No verbal response)

12 CHAIRMAN BURACK: Mr. Patch, could you
13 just clarify for us, the Seabrook upgrade, did that
14 involve some construction? And, if so, what did that
15 entail?

16 MR. PATCH: That's a good question. I
17 don't know if anybody from FPL could provide perhaps more
18 of a basis on that. I can ask on the phone. But I think

19 there were mostly internal modifications to the plant.
20 And, that's what was represented in the filing that was
21 made in that case. I don't think there were necessarily
22 any exterior modifications. I don't think that enlarged
23 the footprint in any way either.

24 CHAIRMAN BURACK: You may have a --
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1 MR. PATCH: Tim? Tim Cooper?

2 MR. COOPER: Yes, this is Tim.

3 MR. PATCH: Tim, there is a question
4 about the uprate at Seabrook that was done four years ago,
5 and what modifications were involved with that. Was there
6 a turbine upgrade or could you give us sort of a brief
7 summary of what was involved with that?

8 MR. COOPER: Yes. We upgraded the
9 turbine. We upgraded the blades of the turbine. We
10 upgraded the generator itself. And, we upgraded our
11 reheaters on our steam, our MSR, Main Steam Reheaters.
12 So, it was primarily -- the majority of the upgrade was
13 achieved through the generator upgrade of the turbine
14 itself.

15 CHAIRMAN BURACK: Okay. Thank you.
16 That's very helpful. Any other questions at this time?

17 (No verbal response)

18 CHAIRMAN BURACK: Okay. I'd like now to
19 inquire whether there are any members of the public who
20 would like to make any -- ask any questions or make any
21 comments with respect to this particular matter? And,
22 again, for those who may have come in late, just explain
23 that the matter before us is Docket Number 2008-05, the

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24 motion of Florida Power & Light Company, also known as
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1 "FP&L", for a declaratory ruling regarding the Seabrook
2 Substation reliability upgrade. Any members of the public
3 who wish to speak to this matter?

4 (No verbal response)

5 CHAIRMAN BURACK: Okay. Very good. I
6 see none. We're now then, unless members of the Committee
7 have further questions, going to turn to a deliberation on
8 the merits of this motion.

9 MR. IACOPI NO: Mr. Chairman, can we
10 inquire of whether or not the employee had any -- finished
11 his calculations with respect to the relative square
12 footage?

13 MR. PATCH: Tim Cooper or anybody else,
14 I don't know if you had a chance to complete the
15 calculations of the rough estimate of what the switchyard
16 would be in relation to the protected area?

17 MR. COOPER: I have.

18 MR. PATCH: Okay.

19 MR. COOPER: Just to be clear, --

20 MR. PATCH: Tim, could you hold up for
21 one second please. Sorry. There's a stenographer here,
22 and he just needs to get your name down first. Okay. All
23 right. Go ahead, Tim.

24 MR. COOPER: All right. I want to be
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1 clear that it is rough. I have eliminated some of the
2 small jogs in the protected area, and taken a scale

3 drawing. And, my rough estimate is that it's less than
4 1.25 percent of the total protected area.

5 CHAIRMAN BURACK: Thank you. Director
6 Ignatius.

7 MS. IGNATIUS: Thank you. I just want
8 to ask that, however we end up today, would the Company
9 submit that calculation in writing, not an extensive
10 thing, but just a recitation of what you just described
11 and what was being included and not included in a general
12 sense? As well as copies of the things you've referenced
13 today, the ISO approval, the letters from the Army Corps
14 and DES, confirming that you don't need permitting, the
15 Seabrook permit that you expect to be receiving soon. Any
16 other correspondence that I may not be thinking about that
17 is all part of the package. So that, whether we go
18 forward with a finding that it's not a sizeable addition
19 today or that we go forward with a exemption request later
20 this month, that those should be part of the file. Thank
21 you.

22 CHAIRMAN BURACK: Thank you, Attorney
23 Patch. Okay. Further discussion, deliberations with
24 respect to this matter? Director Ignatius.

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1 MS. IGNATIUS: Mr. Chairman, I believe
2 that this should constitute a -- well, it's a bad way to
3 start it -- should not constitute a sizeable addition, and
4 would be appropriate to approve without further
5 proceedings, other than the submission of the final
6 information, and particularly from the Town of Seabrook, I
7 don't think any decision we make should be final until

8 that and any other piece that may be required here has
9 been received. But that, based on what we've heard, that
10 everything is moving forward on permitting and agreeable
11 to the Town, and that the description of the work being
12 done does not affect the protected area, just building a
13 slightly higher addition on top does not change the output
14 of the plant, does not change the ways in which the
15 community is affected by the operation of the plant or by
16 the visual aspects or the environmental aspects of the
17 operation of the plant. I don't think it would be a good
18 use of everyone's time to go through a full-blown
19 proceeding or even to go through an exemption application.

20 I'm not sure I would have come to that
21 conclusion on the upgrade of Seabrook the last time out,
22 but that's a prior committee and a prior ruling. But this
23 to me does not strike me as something that we need to have
24 further proceedings on.

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1 CHAIRMAN BURACK: Do I understand you,
2 Director Ignatius, to have made a motion then to that
3 effect, that we would issue an order to the effect that
4 this is not a sizeable addition to the facility?

5 MS. IGNATIUS: I would make that motion,
6 with the one caveat that no order become effective until
7 receipt of all permits that have been issued or letters
8 confirming that permits are not required have been
9 received.

10 CHAIRMAN BURACK: Is there further
11 discussion? Mr. Bald.

12 CMSR. BALD: I was going to second it.

13 CHAIRMAN BURACK: We have a motion and a
14 second. Is there a discussion of the motion? Director
15 Getz.

16 VICE CHAIRMAN GETZ: Well, Mr. Chairman,
17 I support the motion. I would just like to make sure that
18 we bolster the decision in a couple of respects, following
19 up on the questions that I had asked, and I think this
20 goes to Ms. Ignatius's issue about rounding out the record
21 with the actual numbers. Because it's my understanding
22 that the cost of this addition is less than 1 percent of
23 the investment in the plant. We've heard a representation
24 that the square footage of this addition is about

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1 1.25 percent of the protected square footage of the
2 portion of the facility. And, from my perspective, those
3 are not "sizeable" additions. And, also, if you look at
4 the exhibit with respect to the height of the new
5 addition, it's not as tall as other parts of the building,
6 so it doesn't affect the overall view of the facility.
7 And, so, in those regards, I would -- I would support the
8 finding that it's not a sizeable addition.

9 CHAIRMAN BURACK: Further discussion?
10 Director Bald, did you have a question?

11 CMSR. BALD: No.

12 CHAIRMAN BURACK: Mr. Patch.

13 MR. PATCH: Mr. Chairman, maybe just to
14 clarify one thing. In terms of the permits, in some cases
15 we have e-mails actually indicating, you know, from like
16 people at DES that, you know, there's no permits required.
17 I don't know if that would be sufficient for what's being

18 requested or if you would like a more formal letter from
19 those people, just to clarify?

20 CHAIRMAN BURACK: Director Ignatius.

21 MS. IGNATIUS: Well, I appreciate your
22 highlighting that. I think we're taking something on
23 faith here. You've told us you don't need permits or that
24 you, for anything you do need, you have it in hand or

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1 you're about to get it. And, part of moving this quickly
2 is to take that on faith. But we're a bit at risk that
3 they don't all materialize. And, that the more informal
4 we get, with e-mails, rather than letters that have been
5 issued by an agency, that does raise in my mind a little
6 bit of a question that we need to confirm that, in fact,
7 there aren't permits required. I don't know how much the
8 agency is, you know, DES, EPA, and Army Corps of
9 Engineers, we've heard a number of different entities who
10 have looked at this. And, since I don't know the status
11 in real detail of each of those, it's a little bit hard to
12 know.

13 I mean, one possibility would be, if the
14 declaratory motion ruling is approved, that there be some
15 meeting with counsel to go through the stack of approval
16 letters, e-mails, correspondence you may have, and be
17 certain that we are tying down all of those loose ends.
18 And, if that's acceptable to counsel, he's authorized to
19 notify us that that's been reviewed and found acceptable.
20 And, if any flags are raised, we'd come back and discuss
21 it again. That would be one possible solution.

22 CHAIRMAN BURACK: Attorney Iacopi no.

23 MR. IACOPINO: I understand you want the
24 documents. But does -- would language in an order similar
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1 to this satisfy your concerns, Ms. Ignatius? "If further
2 study or evidence reveals that the proposed upgrade
3 project is broader in scope than represented by the
4 Applicant, requires additional state or federal permits,
5 or if circumstances change substantially, the Committee
6 may require compliance with the certification requirements
7 of RSA 162-H. Additionally, this order granting the
8 motion will only apply to the specific project referenced
9 within the motion and does not apply to any other project
10 or construction at or near the Seabrook Substation."

11 MS. IGNATIUS: It's not bad, but it
12 seems to me that comes at the end of what would be a long
13 proceeding and some extra language just to protect you for
14 the future. In this case, we're doing a very fast tracked
15 agreement to move this without much review of
16 documentation. And, I'm willing to go to a certain extent
17 to know that there may be things down the road that we
18 haven't yet seen. But, at the outset, it seems to me we
19 should have a little more than that.

20 MR. BIRGISSON: Could I ask for --

21 CHAIRMAN BURACK: Director Stewart.

22 Just a moment please.

23 MR. STEWART: Yes. Just based on the
24 footprint and the description of the construction yard,
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1 the existing, you know, areas that were, excuse me,
2 impacted by the original construction will be used for
3 storage of construction materials and so forth. But it's
4 pretty clear that there would be no wetlands permit or
5 terrain alteration permit required for the construction of
6 this building. And, I'm sure that's what the e-mails
7 reflect. But just, you know, looking at this project,
8 it's clear that there would be no Corps wetlands permit
9 required or a DES wetlands permit or a DES terrain
10 alteration permit, based on what I see.

11 CHAIRMAN BURACK: Thank you. Further
12 discussion here?

13 MR. BIRGISSON: Could I ask for -- Oh,
14 excuse me. Could I ask for a classification on one thing?

15 CHAIRMAN BURACK: Mr. Birgisson.

16 MR. BIRGISSON: Thank you. Gunnar
17 Birgisson, for FPL. Just to try to paraphrase my
18 understanding, is the possibility then that the motion
19 would be approved, and that what we request is then
20 effective subject to the condition that we afterwards
21 supply the confirmation of the permits or the lack of need
22 for permits? I think it was worded at some point such
23 that "it wouldn't become effective until we received those
24 -- we submit those confirmations." I guess there's a

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1 difference. It would give us more comfort for going
2 forward on everything we need to do if it's effective, and
3 then we -- we supply afterwards all the other documents
4 that you requested.

5 CHAIRMAN BURACK: Ms. Ignatius.

6 MS. IGNATIUS: I'm happy to try to sort
7 that out. And, you're right, I had used the other
8 phrasing. My interest is that we have in hand before
9 construction begins the documentation that shows that you
10 do not need certain permits or that you do need them and
11 they are in hand. Now, whether that's -- it's effective
12 subject to that condition or it's not effective until that
13 condition is met, I guess I don't really care. But I
14 wouldn't want it to be sometime a year after construction
15 that there be a submission of final permitting. I would
16 want to see that that's in place before construction
17 begins.

18 MR. BIRGISSON: Right. Thank you for
19 that clarification.

20 CHAIRMAN BURACK: Mr. Iacopino.

21 MR. IACOPI NO: Mr. Chairman, would it
22 help if I just listed through what those things might be
23 that I think you're speaking about? First off, you would
24 probably want a copy of the notice to be filed with EPA

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1 Region 1 regarding the general construction permit under
2 NPDES. There is a certification that comes from either
3 the New Hampshire Public Utilities Commission or I guess
4 the Florida Commission, complying with RSA 374-A, and a
5 waiver from PUC reporting requirements for capital
6 improvements in excess of \$100,000. We would also be
7 looking for a building permit from the Town of Seabrook.
8 Those are the, as I understand it, at least as represented
9 in the motion, the permits or certificates that would need
10 to be obtained.

11 The ones that would not need to be
12 obtained and what we would like correspondence from the
13 appropriate agency confirming that fact is, there is no
14 requirement of a DES waiver from State of New Hampshire
15 under the Comprehensive Shoreland Protection Act. That
16 there is no wetlands permit required from the same agency.
17 That an Alteration of Terrain Permit is not required.
18 And, that there are no permits or authorizations required
19 from the United States Army Corps of Engineers. I've
20 obtained that out of your filing, and have relied on the
21 filing for giving me a comprehensive identification of
22 what permits might possibly be implicated.

23 So, with respect to Ms. Ignatius's
24 request, what I think you're saying is we need those first

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1 set of permits for certification and letters confirming
2 that the second set are not necessary from those agencies.

3 I am more than happy as counsel to
4 coordinate obtaining those from the Applicant and
5 informing the Committee when they are all, in fact,
6 received.

7 CHAIRMAN BURACK: I'm going to ask
8 Counsel to the Committee to circulate to the Committee
9 members a draft of an order that I think covers many of
10 the issues we've been discussing. We're going to take
11 about five minutes here for the Committee to review this
12 draft. So, we'll take a short break here. And, then, we
13 will come back to discuss this particular document. And,
14 I would point out that the draft does also include
15 addressing the Motion for Protective Order and

16 Confidential Treatment, as well as -- well, that issue is
17 also addressed in a draft order. So, we will recess here
18 for five minutes or so to give members of the Committee an
19 opportunity to review a draft order and then we will have
20 further discussion.

21 (Whereupon a recess was taken at 9:45
22 a.m. and the hearing reconvened at 10:05
23 a.m.)

24 (Whereupon the Draft Order was herewith
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1 marked as Exhibit FPL-1 for
2 identification.)

3 CHAIRMAN BURACK: We will resume this
4 public hearing with respect to the Docket Number 2008-05,
5 motion from Florida Power & Light Company for a
6 declaratory ruling regarding a proposed reliability
7 upgrade of the Seabrook Transmission Substation. Before
8 we recessed, we had circulated to the Committee a draft of
9 a proposed order, which has been marked I believe as
10 "Exhibit FPL-1". And, before we turn to a discussion of
11 this draft order, I'd like to invite Chairman Getz to
12 address a matter relating to Public Utility Commission
13 concerns.

14 VICE CHAIRMAN GETZ: Well, I just wanted
15 to make one distinction with respect to the ISO approvals
16 with respect to this change at the facility. That what's
17 occurring there is something entirely separate from the
18 undertaking that we're pursuing today. I just wanted to
19 make clear that this decision, with respect to whether
20 it's a sizeable addition, has no effect on what type of

21 rate treatment should be accorded to the addition, and
22 that the PUC is separately involved in that matter at the
23 ISO.

24 CHAIRMAN BURACK: Thank you very much,
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1 Chairman Getz. Attorney Iacopino.

2 MR. IACOPI NO: Can I just address the
3 proposed order that I've submitted?

4 CHAIRMAN BURACK: Please.

5 MR. IACOPI NO: What I would suggest that
6 we do with this, Mr. Chairman and members of the
7 Committee, is that we include in, on Page 4, the first
8 paragraph that actually starts over on Page 3, that I
9 include in that section of this proposed order a reference
10 to the relative cost compared to the overall Seabrook
11 construction, and reference to the relative square footage
12 that you heard as evidence here today, within that
13 paragraph of the proposed order. And, that the first full
14 paragraph on Page 4 be amended to comply with the
15 suggestions made by Ms. Ignatius about documents that we
16 would require the Applicant to provide.

17 Also, there is a error, based on my
18 looking at black and white photos, but there is an error
19 in there on Page 4, where I state that the proposed
20 "roofline will remain below the adjacent administration
21 building", that's inaccurate. It will remain below the
22 other two buildings that are adjacent, the heater bay and
23 the turbine building. I had "administration building"
24 because I was working off the black and white on my

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1 computer. So, I don't know if anybody has -- Oh. And,
2 also that we would add references to the exhibits that
3 will be marked before we conclude this hearing today, and
4 which have been introduced here. I also would point out
5 that this motion also deals with the request for
6 confidential treatment of the photograph, which was
7 attached to the motion, and I assume that we would amend
8 it to also apply to the two exhibits presented here today.
9 And, then, actually, in this order, actually grant that
10 protective motion on the basis that the security concerns
11 about the safety, about the Seabrook Nuclear Power Station
12 render them to be commercially sensitive documents, and
13 therefore exempt under the Right to Know Law in New
14 Hampshire.

15 And, although I've been trying to get on
16 Google Earth the Seabrook Station, I don't know, I mean,
17 that's a decision for you all to make as a policy matter
18 whether you want to accord confidential treatment to these
19 photographs. The way that I have it worded in the order
20 is that simply they will remain the property of the
21 Committee under seal.

22 CHAIRMAN BURACK: Thank you, Attorney
23 Iacopino. Are there other questions or comments on this
24 draft order, particularly with respect to any substantive

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1 issues or changes? Mr. Scott.

2 DIR. SCOTT: At the top of Page 3, if I
3 understood correctly from the Applicant, they have
4 received approval from the ISO-New England. And, if

5 that's the case, perhaps we could change the wording as
6 that "FP&L has represented that it will obtain a building
7 permit from the Town of Seabrook and has received approval
8 from ISO-New England"?

9 CHAIRMAN BURACK: Attorney Birgisson.

10 MR. BIRGISSON: Yes. It's Gunnar
11 Birgisson. We could identify the specific approval that
12 we were referring to, if you like. That is approval under
13 Section 1.3.9 under the ISO-New England tariff. That is
14 the one that we were referring to that we have obtained.
15 Thank you.

16 CHAIRMAN BURACK: Thank you. That's
17 very helpful. Are there other comments with respect to
18 any substantive matters? We don't need to get into
19 detailed editing at this time.

20 (No verbal response)

21 CHAIRMAN BURACK: What I might suggest
22 as a way of proceeding then is this. Is perhaps Director
23 Ignatius would modify her motion and --

24 CMSR. BALD: I will withdraw my second.

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1 CHAIRMAN BURACK: -- or you can just
2 consent in your second, to effectively adopt this order
3 substantially as presented, with the revisions that have
4 been discussed and any other editorial changes that may be
5 made for adoption by the SEC.

6 DIR. IGNATIUS: Thank you. I will
7 withdraw my initial motion and substitute instead the
8 motion that you just described, the draft order as
9 circulated, with the discussion of final editing that

10 we've discussed here, be approved.

11 CHAIRMAN BURACK: Very good. Thank you.

12 CMSR. BALD: Second.

13 CHAIRMAN BURACK: We have a second from

14 Director Bald. Okay. Any discussion of the motion?

15 (No verbal response)

16 CHAIRMAN BURACK: If not, all those in

17 favor, please signify by saying "aye".

18 (Multiple members indicating "aye".)

19 CHAIRMAN BURACK: Any opposed?

20 (No verbal response)

21 CHAIRMAN BURACK: Any abstentions?

22 (No verbal response)

23 CHAIRMAN BURACK: Thank you. The motion

24 carries. And, thank you very much. Attorney Patch.

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1 MR. PATCH: Mr. Chairman, members of the
2 Committee, we just wanted to say how much we appreciate
3 you taking us out of order this morning and addressing
4 this so quickly. Thank you very much.

5 CHAIRMAN BURACK: Certainly, we can hand
6 photographs back. We will mark two of these photographs
7 as exhibits in this matter and they will be placed under
8 seal as indicated in the order.

9 (Whereupon the two photographs were
10 herewith marked as Exhibit FPL-2 and
11 Exhibit FPL-3, respectively.)

12 CHAIRMAN BURACK: Hearing nothing
13 further on this matter, we will adjourn this matter. And,
14 I think what we're going to do is commence a separate

1201-FPL.txt

15 transcript for the second portion of this hearing. Thank
16 you.

17 (Whereupon the hearing ended at 10:12
18 a. m.)

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